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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,759	10/02/2003	Sidney Edward Fisher	60,130-1900	4928

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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT PAPER NUMBER

3676

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No.		Applicant(s)	
	10/677,759		FISHER, SIDNEY EDWARD	
	Examiner		Art Unit	
	Christopher Boswell		3676	

-- The MAILING DATE of this communicati n appears on th cover sheet with the corresp ndenc address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12,26,27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,26,27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 26-27, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Number 2002/0074809 to Fisher, in view of U.S. Patent Number 5,884,827 to Stein.

Fisher discloses the invention substantially as claimed. Fisher discloses a door latch assembly having a release lever (18) movable about a release axis (B), a lock lever (24) movable about a lock lever axis (D), where the release lever and the lock lever are movable between a latched unlocked position (figure 1), a latched locked position (figure 2), and an unlatched position (figure 4), and a resilient assembly (28) connected between the release lever and the lock lever, where the force of the resilient member moves the release lever relative to the lock lever when the lock lever and the release lever are in the unlatched position (paragraph 38), as in claim 1, wherein the resilient assembly acts in a non-resilient manner when the release lever and lock lever move from the latched unlocked position to the latched locked position and vice-versa (paragraph 23), as in claims 2 and 3. However, Fisher does not disclose the feature of the resilient assembly. Stein teaches of a resilient assembly having a first retainer (52) having a first seat (the upper of the two seats contiguous to element 58), a first load application feature (54), and a first projection (upper element 58), a second retainer (50) having a second seat (the seat

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contiguous to element 60) and a second load application feature (56), wherein the first seat and the second seat face each other (figure 7), and a resilient member (62), being a coil spring, as in claim 32, supported between the first seat and the second seat and positioned between the first load application feature and the second load application feature (figure 7), and wherein the first projection of the first retainer projects from the first seat only partially through the resilient member (figure 7) in the analogous art of resilient assemblies for the purpose of a resilient device that is readily yieldable in a lengthwise direction both under pulling and end-thrust strains for reducing incidental shock (column 1, lines 50-55). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the resilient member of Stein into the door latch assembly of Fisher in order to have the resilient member readily yieldable in a lengthwise direction both under pulling and end-thrust strains for reducing incidental shock.

Stein further teaches of the first and second retainers both include a recess that receives a portion of the resilient member (figures 6 and 7), as in claim 4, as well as the recess having an additional seat (the lower of the two seats contiguous to element 58; and the seat opposed from the second seat near the second load application feature), and where the resilient member is mounted between the additional seat and the first and second seats (figure 7), as in claim 5, and where the additional seat and the first and second seat hold the resilient member in a pre-loaded position (column 4, lines 55-58), as in claim 6, and the additional seat comprises a first additional seat (the lower of the two seats contiguous to element 58) and a second additional seat (the seat opposed from the second seat near the second load application feature), and the first retainer comprises the first additional seat and the second retainer comprises the second

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additional seat, as in claim 7, where the first seat, the second seat, the first additional seat and the second additional seat are arranged to allow lost motion between the resilient member and one of the first retainer and the second retainer (column 4, lines 46-58), as in claim 8, and where the first seat, the second seat, the first additional seat and the second additional seat are arranged to preload the resilient member (lines 28-37), as in claim 9.

Stein also teaches of the first retainer having a first additional projection that projects from the first additional seat (lower element 58, parallel to the first projection 58; as seen in figure 6), where the resilient member is mounted on the first projection and the first additional projection (figure 7), as in claim 10, wherein the first retainer and the second retainer surrounds the resilient member (figure 7), as in claims 26 and 27. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate features of the resilient member of Stein into the door latch assembly of Fisher in order to have the resilient member readily yieldable in a lengthwise direction both under pulling and end-thrust strains for reducing incidental shock.

The limitations found in claim 29 are considered a product by process type limitation, wherein even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In *re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985), where the first and second retainers of Stein are substantially the same product as claimed. Stein further discloses the sheet material is capable of being metal (column

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4, line 63-column 5, line 3), as in claim 30. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate features of the resilient member of Stein into the door latch assembly of Fisher in order to have the resilient member readily yieldable in a lengthwise direction both under pulling and end-thrust strains for reducing incidental shock, where the resilient assembly would be manufactured from metal to have a greater durability and higher tensile strength.

Fisher and Stein disclose the invention substantially as claimed. However, Fisher and Stein do not disclose the first projection has a different length than the first additional projection, as in claim 31. It would have been obvious to one with ordinary skill in the art at the time the invention was made to lengthen or shorten either the first projection or the first additional projection, with respect to the other of the first projection or the first additional projection of the resilient member of Stein into the door latch assembly of Fisher in order to have the resilient member readily yieldable in a lengthwise direction both under pulling and end-thrust strains for reducing incidental shock, as well as to adjust the location of the lost motion device with regards to the location of the tensile load, wherein a longer projection would facilitate in aligning the resilient member in a functional direction.

Allowable Subject Matter

Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

The claims are allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that of the second retainer having a second additional projection the projects from the second additional seat.

Response to Arguments

Applicant's arguments with respect to claims 1-12, 26-27 and 29-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to resilient assemblies:

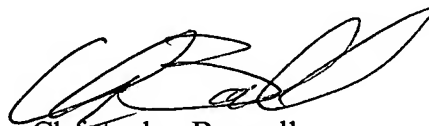
U.S. Patent Number 1,471,121 to Grasnick, U.S. Patent Number 1,364,427 to Corey, U.S. Patent Number 1,294,655 to Hammers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher Boswell
Examiner
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CJB *CB*
June 7, 2006